

**EXHIBIT A**

S U M M O N S

CIRCUIT COURT OF WAYNE COUNTY, WEST VIRGINIA

Civil Action No. 13-C-164

JOHN C NIBERT

Plaintiff

V.

> Summons

ALETTEA CHAPMAN  
60 GAYLE COURT  
HUNTINGTON, WV. 25704  
JAMES BRAIN HINKLE  
561 POCA RIVER ROAD  
POCA, WV. 25159

Defendant

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WAYNE COUNTY WV

To the Above-named Defendant:

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon LAWRENCE LOWRY, plaintiff's attorney, whose address is P.O. BOX 402 HUNTINGTON, WV. 25708 (304) 529-2434, an answer, including any related counterclaim you may have, to the complaint filed against you in the above styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above styled civil action.

Dated: AUGUST 07, 2013

MILTON J. FERGUSON II

Clerk of Court

By

*Irma Lowry*  
Deputy Clerk



IN THE CIRCUIT COURT OF WAYNE COUNTY, WEST VIRGINIA

John C. Nibert,  
and all others similarly situated,

Plaintiffs,

v.

Civil Action No. 13-E-164

Aletta Chapman and James Brian Hinkle,

Defendants.

COMPLAINT

COME NOW, Plaintiffs, John C. Nibert and all others similarly situated, by counsel,  
Lawrence B. Lowry and Barrett Chafin Lowry & Amos, and for their Complaint against  
Defendants,, Aletta Chapman and James Brian Hinkle, state as follows:

1. Plaintiff John C. Nibert is one of a group of employees who worked for Chapman-Martin Excavation & Grading, Inc., a West Virginia corporation, on work performed primarily in the State of West Virginia at all times material hereto.
2. At all times material hereto, the principal office and headquarters of Chapman-Martin Excavation & Grading, Inc. was located at 5101 James River Road, Huntington, Wayne County, West Virginia.
3. At all times material hereto, the Defendant, Aletta Chapman, was a resident of Wayne County, West Virginia, and the Secretary-Treasurer and principal stockholder of said Chapman-Martin Excavation and Grading, Inc.
4. At all times material hereto, the Defendant, James Brian Hinkle, was a resident of Putnam County, West Virginia, and the President and a stockholder of said Chapman-Martin Excavation and Grading, Inc.

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BY [Signature]

5. At all times material hereto, the Plaintiffs worked for said Chapman-Martin Excavation and Grading, Inc. in Wayne County and at other various construction sites in West Virginia.

6. Pursuant to certain agreements between said Chapman-Martin Excavation and Grading, Inc. and the collective bargaining agent for the Plaintiffs, Chapman-Martin Excavation and Grading, Inc. agreed to pay certain wages and fringe benefits to the Plaintiffs for the work they performed for Chapman-Martin Excavation and Grading, Inc. However, despite repeated requests and demands from the agents and representatives of the Plaintiffs, Chapman-Martin Excavation and Grading, Inc. has refused and failed to pay the fringe benefits owed on behalf of the Plaintiffs.

7. On or about August 20, 2012, said Chapman-Martin Excavation and Grading, Inc. discontinued business and filed bankruptcy in the United States Bankruptcy Court for the Southern District of West Virginia.

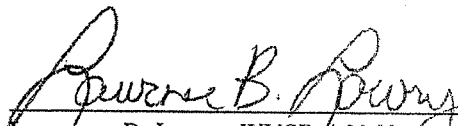
8. At all times material hereto, the Defendant, Aletta Chapman, was an officer of said Chapman-Martin Excavation and Grading, Inc. and is, therefore, liable for all wages, fringe benefits and liquidated damages owed to Plaintiffs pursuant to the West Virginia Wage Payment and Collection Act (West Virginia Code § 21-5-1 to § 21-5-16 and the case of Mullins v. Venable, 171 W.Va. 92, 297 S.E.2d 866 (1982)).

9. At all times material hereto, the Defendant, James Brian Hinkle, was an officer of said Chapman-Martin Excavation and Grading, Inc. and is, therefore, liable for all wages, fringe benefits and liquidated damages owed to Plaintiffs pursuant to the West Virginia Wage Payment and Collection Act (West Virginia Code § 21-5-1 to § 21-5-16 and the case of Mullins v. Venable, 171 W.Va. 92, 297 S.E.2d 866 (1982)).

10. Under West Virginia Code §§ 21-5-4 and 21-5-12, each Plaintiff is entitled to all wages and fringe benefits owed, liquidated damages, interest and all attorney fees and costs for having to bring this action.

**WHEREFORE**, Plaintiffs pray that this Honorable Court order judgment against Defendants, Aletta Chapman and James Brian Hinkle, jointly and severally, for all wages and fringe benefits owed, together with pre and post-judgement interest, attorney fees and costs and any other relief this court may deem just and proper.

John C. Nibert, et al.  
By Counsel



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